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Federal Communications Commission
Office of the Secretary

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February 10, 1992

Hon. Donna Searcy, Secretary
FEDERAL COMMUNICATIONS COMMISSION
Room 222
1919 M Street, NW
Washington, DC 20554

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FCC MAIL BRANCH

Re: Petition for Rule Making
Substitute Ch. 264C3 for Ch. 264A - Northport, Alabama
Delete Channel 263A - Macon, Mississippi

Dear Ms. Searcy:

Enclosed please find an original and five copies of a Petition for Rule Making, filed by WARRIOR BROADCASTING, INC., requesting the substitution of Channel 264C3 for Channel 264A at Northport, Alabama, and the modification of the license for Station WLXY(FM) to specify operation on the higher-class channel; and the deletion of Channel 263A at Macon, Mississippi.

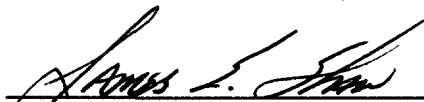
If this proposal is ultimately adopted, Warrior Broadcasting, Inc., will promptly apply for authority to construct and operate Class C3 facilities for Station WLXY(FM).

An additional copy of the first page of the petition is enclosed. Please date-stamp and return to us in the enclosed postage-paid envelope.

If there are any questions, please advise.

Respectfully submitted,

WARRIOR BROADCASTING, INC.


James E. Shaw
President

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Federal Communications Commission
Office of the Secretary

Before the
FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

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In the Matter of

FCC MAIL BRANCH

Amendment of Section 73.202(b)
Table of Allotments,
FM Broadcast Stations
(Northport, Alabama and
Macon, Mississippi

)
)
) MM Docket _____
) RM - _____
)
)
)

To: The Chief, Allocations Branch
Mass Media Bureau

PETITION FOR RULE MAKING

Comes now Warrior Broadcasting, Inc., licensee of Station WLXY(FM) at Northport, Alabama 1/, pursuant to Section 1.401 of the Commission's Rules, and respectfully petitions the Commission to amend the FM Table of Allotments, 47 C.F.R. 73.202(b), to substitute FM Channel 264C3 for Channel 264A at Northport, Alabama, and the modification of the license of Station WLXY(FM) to specify operation on the higher-class channel; and the deletion of Channel 263A from Macon, Mississippi.

1/ WLXY(FM) is currently operating under program test authority. A license to cover the construction, permit is currently pending (File No. BLH-910717KA).

Proposal of Petitioner:

<u>City</u>	<u>Channel Numbers</u>	
	<u>Present</u>	<u>Proposed</u>
Northport, Alabama	264A	264C3
Macon, Mississippi	263A	---

Channel 263A was allocated to Macon in Mass Media Docket No. 85-263 2/. Thereafter, an application for the Macon channel was filed by L. Lynn Henley (File No. BPH-860828MA). Henley's application was granted on March 2, 1987 3/. The construction permit for the Macon facility, which was subsequently assigned from L. Lynn Henley to WMXG, Inc., expired on September 2, 1988. It was since been reinstated and extended several times, however the last application for extension of time, filed on May 15, 1990 (File No. BPH-900515JP), is still pending.

Although the Commission does not routinely remove a community's sole local service, the fact that WMXG(FM) has never been on the air, and will likely never be on the

2/ See *Report and Order*, MM Docket No. 85-263, released June 24, 1986.

3/ See Report No. 20020, *Broadcast Actions*, March 9, 1987.

air, will not cause any disruption to any existing service. Over six years after the Macon channel was allocated and almost five years after the construction permit for WMXG(FM) was originally granted, WMXG(FM) is still non-existent, except on paper. From all indications, it appears that WMXG(FM) is a facility which will never be built. The economic reality of constructing a radio station in such a small community (under 2,500 population) dictates almost certain financial failure. There is simply not enough potential advertising revenue in a community of this size to support a viable radio station. The public interest would therefore be served by deleting Channel 263A from Macon, Mississippi, in order to permit WLXY(FM) to provide expanded service to Northport, Alabama and the surrounding area.

Attached hereto and made a part of this petition is a Technical Exhibit in support of the requested change in the Table of Allotments. Based on the information contained therein, it appears that the proposed channel substitution could be accomplished in compliance with the minimum distance requirements of Section 73.207(b) of the Commission's Rules, providing a site-restriction approximately 6.8 kilometers southwest of Station WLXY(FM)'s present site were imposed.

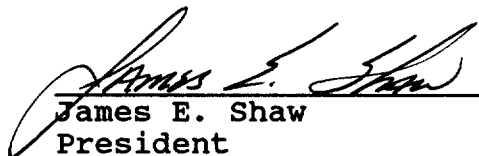
CONCLUSION

If this proposal is adopted, Warrior Broadcasting, Inc., will file an application seeking Class C3 facilities for WLXY(FM).

Except as noted above, the proposed change in the table of allotments will not create a short-spacing to any existing station, pending application or vacant allotment, and will not require the reallocation of any station, pending application or vacant allotment.

WHEREFORE, it is respectfully requested that the instant petition be granted and that the FM Table of Allotments, Section 73.202(b), be amended as requested herein.

Respectfully submitted,
WARRIOR BROADCASTING, INC.


James E. Shaw
President

February 10, 1992

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FCC MAIL BRANCH

TECHNICAL EXHIBIT

**IN SUPPORT OF
PETITION FOR RULE MAKING**

**SUBSTITUTION OF FM CHANNEL 264C3
FOR FM CHANNEL 264A
AT NORTHPORT, ALABAMA
AND MODIFICATION OF LICENSE
OF WLXY(FM) TO SPECIFY OPERATION
ON THE HIGHER-CLASS CHANNEL**

WARRIOR BROADCASTING, INC.

Prepared February 3, 1992

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Broadcast Consultants
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TECHNICAL EXHIBIT

IN SUPPORT OF PETITION FOR RULE MAKING
SUBSTITUTION OF FM CHANNEL 264C3
FOR FM CHANNEL 264A
AT NORTHPORT, ALABAMA
AND MODIFICATION OF LICENSE
OF WLXY(FM) TO SPECIFY OPERATION
ON THE HIGHER-CLASS CHANNEL

WARRIOR BROADCASTING, INC.

INTRODUCTION

This Technical Exhibit supports the petition of Warrior Broadcasting, Inc., seeking to amend the FM Table of Allotments, Section 73.202(b) of the Rules, by substituting FM Channel 264C3 for FM Channel 264A at Northport, Alabama, and the concomitant modification of Station WLXY(FM)'s license 1/ to specify operation on the higher-class channel.

ALLOCATION

A study was performed using the computerized *SEARCHFM* frequency search program and the current FCC/NTIS database to

1/ WLXY(FM) is currently operating under program test authority. A license to cover the construction permit (BPH-880915MO) is currently pending (File No. BLH-910717KA).

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determine if Channel 264C3 could be allocated to Northport in compliance with the minimum distance separation requirements of Section 73.207(b) of the Commission's Rules. The results of that study indicate that Channel 264C3 could be substituted for Channel 264A, in full compliance with Section 73.207(b), providing WLXY(FM) relocated its transmitter site to a location in the "useable area", an area to the southwest of Northport 2/. The site-restriction would be necessary in order to avoid short-spacing to Station WHMA-FM, Channel 263C at Anniston, Alabama. The substitution of Channel 264C3 for Channel 263A at Northport, Alabama, would also require the deletion of Channel 263A at Macon, Mississippi. Channel 263A was allocated to Macon in Mass Media Docket No. 85-263 3/. Thereafter, one application was filed for the Macon channel (File No. BPH-860828MA). That application was granted on March 2, 1987 4/. The construction permit for the Macon

2/ The "useable area" is shown on Exhibit A, attached hereto. The exhibit depicts the required separation "arcs" from the pertinent co-channel and adjacent channel allocations and stations, and the maximum distance within which a C3 facility may be located while still providing the requisite 70 dBu contour over the city of Northport.

3/ See *Report and Order*, MM Docket No. 85-263, released June 24, 1986.

4/ See Report No. 20020, *Broadcast Actions*, March 9, 1987.

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facility, which was subsequently assigned from L. Lynn Henley to WMXG, Inc., expired on September 2, 1988. It was since been reinstated and extended several times, however the last application for extension of time, filed on May 15, 1990 (File No. BPH-900515JP), is still pending. From all indications, WMXG(FM) is facility which will never be built. The public interest would therefore be served by deleting Channel 263A from Macon, Mississippi, in order to permit WLXY(FM) to provide expanded coverage to Northport, Alabama.

CONCLUSION

Except as noted above, the proposed change in the table of allotments will not create a short-spacing to any existing station, pending application or vacant allotment, and will not require the reallocation of any station, pending application or vacant allotment.

A copy of the separation study for Channel 264C3 is attached hereto as Exhibit B and made a part of this report (only those stations and channels sufficiently close for concern are listed therein).

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CERTIFICATION

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State of Georgia)
) ss.
County of Fayette)

FCC MAIL BRANCH

I, Larry G. Fuss, do hereby certify as follows:

- 1) I am a qualified and experienced broadcast consultant. I have been actively involved in the broadcast industry since 1972 and currently hold a lifetime FCC General Class Radio Telephone License (License No. PG-8-8450).
- 2) I have prepared numerous applications and rule making petitions which have been accepted for filing with the Federal Communications Commission.
- 3) I have been retained by Warrior Broadcasting, Inc., to prepare the attached Technical Exhibit.
- 4) The Technical Exhibit, of which this deposition is a part, and the measurements, calculations, studies and determinations upon which this report is based, were prepared by me or under my supervision and direction. All material contained therein is believed to be true and correct, to the best of my knowledge and belief.

Larry G. Fuss
Larry G. Fuss
Affiant

FEBRUARY 3, 1992
Date

EXHIBIT A

CONTEMPORARY COMMUNICATIONS
P.O. Box 159 - Fayetteville GA

WLXY(FM) NORTHPORT, AL
CLASS C3 FEASABILITY STUDY

REFERENCE	CLASS C3	DISPLAY DATES
33 16 00 N		DATA 12-26-91
87 44 01 W	Current rules spacings	SEARCH 01-31-92
----- CHANNEL 264 -100.7 MHz -----		

CALL TYPE	CH# LAT	CITY LNG	STATE PWR	BEAR' HT	D-KM D-Mi	R-KM R-Mi	MARGIN (KM)
WLXY.C	264A	Northport	AL	62.7	6.84	142.0	-135.16 *
CP CN	33 17 42	87 40 06	3.000 kW	100M	4.3	88.3	
		Warrior Broadcasting, Inc.			BPH880915MO	920815	
WHMAFM	263C	Anniston	AL	76.9	176.00	176.0	0.00 *
LI CN	33 37 38	85 53 25	100.000 kW	348M	109.4	109.4	
		Emerald Broadcasting of the S			BLH890803KB		
WKBB	265A	West Point	MS	293.9	93.62	89.0	4.62
LI CN	33 36 30	88 39 15	3.000 kW	53M	58.2	55.3	
		Bob Mcraney Enterprises, Inc.			BLH6161		
WALX	265C2	Selma	AL	141.3	128.68	117.0	11.68
LI CN	32 21 40	86 52 28	50.000 kW	150M	80.0	72.7	
		Alexander Broadcasting Compan			BLH890324KC		
WFMHFM	266C	Cullman	AL	40.4	118.73	96.0	22.73
CP CN	34 04 54	86 54 13	100.000 kW	408M	73.8	59.7	
		The Voice of Cullman			BPH870227NL		
AD264	264A	Lineville	AL	91.6	177.82	142.0	35.82
AD	33 13 15	85 49 35	0.000 kW	0M	110.5	88.3	
		Emerald Broadcasting of the S					
>Site Restricted 12.1 km Southwest							
WJDQ.C	267C	Meridian	MS	234.5	132.73	96.0	36.73
CP CY	32 34 18	88 53 20	100.000 kW	319M	82.5	59.7	
		Broadcasters & Publishers, In			BPH890609JF		
>From Channel 267C1							

EXHIBIT B

WKBB--LIMIT

WALX--LIMIT

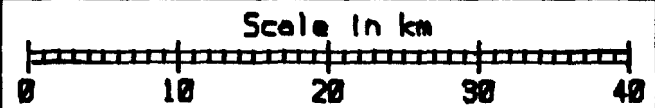
TUSCALOOSA
117.0 CH 125 CL FSS

70 DBU--LIMIT

BIRMINGHAM 2 MOA
EXCLUDES AIRSPACE
FROM SURFACE TO BUT
NOT INCL 5000'

WHMA--LIMIT

BIRMINGHAM MOA
BIRMINGHAM 2 MOA



CH. 264C3 - USEABLE AREA

505 FROM SURFACE TO BUT NOT INCL 4000'

VAIDEN

225° 179' 122.80

Hamburg (919)

Suffie

VORTAC 118.2 IGB

30'

33°

Joins Memphis

VORTAC 113.8 EWA

87°

10

28

95